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Comptroller General of the United States

Washington, D.C. 20548

REDACTED VERSION'

Decision

Matter of:

Johnson Controls World Services Inc.

File:

B-257431; B-257431.5

Date:

October 5, 1994

Kathleen C. Little, Esq., Nancy L. Boughton, Esq., John G. Horan, Esq., Christina Yu, Esq., Harvey G. Sherzer, Esq., and Harriet Mountcastle-Walsh, Esq., Howrey & Simon, for the protester.

Thomas J. Madden, Esq., John J. Pavlick, Esq., Fernand A. Lavallee, Esq., and Fred J. Federici, Esq., Venable, Baetjer, Howard & Civiletti, for Range Systems Engineering, an interested party.

Capt. Gerald P. Kohns, Department of the Army, for the agency.

Peter A. Iannicelli, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

- 1. Contracting agency may consider offeror's efficiency in performing the required work when evaluating the relative merits of proposals, even where the request for proposals (RFP) does not specifically list efficiency as an evaluation factor.
- 2. Agency was not required to hold discussions regarding protester's proposed management structure, about which the evaluators were concerned, since the protester's proposal was rated as acceptable or better on all evaluation factors/subfactors under which management structure was evaluated, and agencies are not required to point out elements of proposals that receive less than full evaluation credit.

DECISION

Johnson Controls World Services Inc. (JCWS) protests the Department of the Army's award of a contract for logistics support services (LSS) to Range Systems Engineering (RSE) pursuant to request for proposals (RFP) No. DASG60-93-R-

^{&#}x27;The decision issued October 5, 1994, contained proprietary information and was subject to a General Accounting Office protective order. This version of the decision has been redacted. Deletions in text are indicated by "[DELETED]."

0017. The protester contends that the Army evaluated RSE's proposal improperly and did not hold meaningful discussions concerning certain perceived deficiencies in the protester's proposal. We deny the protest.

Issued on July 12, 1993, the RFP requested offers for providing logistics and base support services to the United States Army Kwajalein Atoll (USAKA) in the Republic of the Marshall Islands. The RFP envisioned award of a cost-plus-award-fee, level-of-effort contract that would include a 2-month phase-in period, a 2-year base performance period, and three 2-year option periods. The RFP stated that the Army would award the contract to the offeror whose proposal represented the best value to the government based upon an evaluation of technical, management, and cost areas of each proposal. The RFP stated that cost was a substantial evaluation factor but was less important than the technical and management areas which were equal in importance.

Kwajalein Atoll is the location of a government-owned, contractor-operated major range and test facility base, an antiballistic missile test range, and a defense site. The primary missions of the USAKA are to support the developmental and operational testing of strategic defensive and offensive ballistic missile systems, ballistic missile defense discrimination research, and to conduct space surveillance functions for the Department of Defense. Other government agencies supported by USAKA include the National Aeronautics and Space Administration, the Department of Energy, and the Defense Nuclear Agency.

To allow Atoll major range and test facility base users and tenants to attract and retain the highly skilled personnel required for conducting their technical operations, the contractor is to provide a wide variety of support services comparable to that which would be available to a scientific and technically oriented civilian community in the United The contractor will provide a widegrange of services including, among other things, services related to: (1) program support (personnel administration and financial, property, and data management); (2) operation and maintenance of facilities assets; (3) supply and transportation requirements; (4) aviation; (5) automotive and related equipment; (6) marine vessels and operations; (7) retail merchandising activities; (8) food services; (9) community activities (including religious services, hobby shops, and recreational programs); (10) medical and dental programs; and (11) education (preschool through high school, including special education and adult education).

Six offers, including the proposal of JCWS, the incumbent logistics supply services contractor, were received by the July 20, closing date for receipt of initial proposals. All

six offerors were included in the competitive range. Discussions were conducted with each competitive range offeror, and best and final offers (BAFOs) were received by March 14, 1994. BAFOs were evaluated for technical merit and to establish the total evaluated probable cost of each offer. After consideration of the source selection evaluation board's final report and a briefing by the source selection advisory council, on May 13, the source selection authority selected RSE for award, and on May 20, the contract was awarded to that firm. JCWS filed its initial protest in our Office on May 27 and filed a supplemental protest on June 10 after being debriefed by the Army.

The protester contends that the Army improperly evaluated RSE's proposal on an evaluation factor—efficiency to be achieved by consolidation of the present LSS contract with an existing Army contract for integrated range engineering services (IRE)—that was not identified in the RFP. The protester states that RSE proposed to use common resources (for example, management and administrative personnel and work centers) to perform work on both the IRE contract and the present LSS requirement, and argues that the Army should not have considered this aspect of RSE's approach to doing the work in evaluating RSE's proposal.

[DELETED], the Army emphasizes that RSE did not propose to merge or consolidate the IRE contract with the LSS contract. [DELETED].

The Army further acknowledges that its evaluation of RSE's proposal took into account and gave RSE credit for these aspects of its proposal under the RFP's stated evaluation criteria. The Army summarizes it evaluation as follows:

"A careful reading of both the RSE proposal and the evaluation documents reveals that the benefits to be reaped by the Army by the award to RSE, as the IRE contractor, are primarily non-quantifiable efficiencies [DELETED]. [Parenthetical expression and footnotes omitted.]

[DELETED]

We see no impropriety here. First, an agency may properly consider efficiency when comparing the relative merits of proposals; the fact that efficiency is not itself set forth as a specific evaluation factor does not preclude its

RSE is the incumbent contractor performing IRE services for the Army. Under the IRE contract, RSE is currently providing highly sophisticated engineering support services for complex radar and electronic equipment on the Atoll.

consideration in connection with evaluation factors to which it is related. See Advanced Management, Inc., B-251273.2, Apr. 2, 1993, 93-1 CPD ¶ 288; Purvis Sys. Inc., 71 Comp. Gen. 203 (1992), 92-1 CPD ¶ 132; see also John Brown E & C, B-243247, July 5, 1991, 91-2 CPD ¶ 27, wherein we denied a protest alleging that the Air Force used unstated evaluation criteria where the evaluators considered the fact that one offeror had additional workers at a nearby airfield who could be called upon, if necessary, to provide uninterrupted fuels management services.

Second, several RFP provisions make clear that efficient staffing and operation was important to the Army. For example, the RFP's statement of work required support of the IRE mission and contractor on a priority basis. The statement of work also stated:

"The contractor's staff activity and organizational structure shall promote and represent the most effective and efficient organizational structure, span of control, supervisor control, and reporting requirements." [Emphasis added.]

The RFP evaluation scheme included evaluation of a technical area, comprised of two evaluation factors (technical approach, understanding the statement of work and staffing; and corporate capability and experience), and a management area, comprised of four evaluation factors (management approach, personnel policies and benefits, contract management approach, and subcontracting plan). In describing the technical approach, understanding the statement of work and staffing factor, the RFP stated:

"The offeror's proposal will be evaluated to assess the extent to which the proposed staffing plan <u>suitably allocates proposed human resources</u> to accomplish the requirements of the [statement of work]." [Emphasis supplied.]

In describing the corporate capability and experience factor, the RFP stated:

"The contractor's ability to apply past experience and resources to the requirements of the scope of work will be evaluated. In addition, the offeror's proposal and information obtained from

Within this technical evaluation factor, the RFP set forth 11 subfactors, corresponding to the various categories of required services, upon which proposals were to be evaluated.

government sources will be evaluated to assess the extent to which the offeror's recent corporate experience demonstrates the capability to perform the requirements " [Emphasis added.]

In addition, RFP amendment No. 0008 included two Army reports featuring a number of initiatives for USAKA including: consolidation and reduction of contractor efforts, consolidation of all Army contracts, and reduction of the number of contractor employees' families at the Atoll due to contractor consolidation.

In our view, these RFP statements clearly informed all offerors that any approach to performing the required work that offered economy, efficiency, or better quality services was welcomed by the Army and would be considered in the evaluation of proposals. Thus, the fact that the RFP did not specifically identify sharing of resources between contracts as a major evaluation factor did not preclude its consideration in connection with efficiency and effectiveness under evaluation criteria to which it is reasonably related. See Human Resources Research Org., B-203302, July 8, 1982, 82-2 CPD ¶ 31.

The protester also contends that the Army failed to hold meaningful discussions with it. According to JCWS, at the debriefing conference, the Army (DELETED) explained that the (DELETED) management proposed would result in inefficiencies. JCWS points out that the source selection evaluation board identified JCWS's proposed management structure as a weakness (DELETED). JCWS argues that, notwithstanding the evaluators' perception that JCWS's management structure was a weakness of the proposal, the Army improperly never questioned JCWS concerning the perceived weakness.

The Army responds that, in general, the evaluators' negative comments concerning JCWS's management structure were related in significant part to [DELETED].

Agencies are required to conduct meaningful discussions with all competitive range offerors. Stone & Webster Eng'q Corp., B-255286.2, Apr. 12, 1994, 94-1 CPD ¶ 306. In order for discussions to be meaningful, contracting officials must advise offerors of deficiencies in their proposals and afford offerors an opportunity to revise their proposals to satisfy the government's requirements. Id. However, the agency is not obligated to discuss every aspect of an acceptable proposal that receives less than the maximum score. Id.; Veco/W. Alaska Constr., B-243978, Sept. 9, 1991, 91-2 CPD ¶ 228.

Our examination of the evaluation documents—especially those relating to the four subfactors in which the evaluation panel made negative comments about JCWS's multi-layered management—reveals that, while the comments were in fact made, the evaluation panel rated the proposal as acceptable or better on each evaluation subfactor. JCWS's management structure was not viewed as a serious weakness or deficiency, and since an agency is not obligated to discuss every aspect of an acceptable proposal that receives less than the maximum score, the Army was not required to discuss this matter with JCWS. See Stone & Webster Eng'q Corp., supra.

In any event, even if the Army had discussed the relative disadvantages of JCWS's management with the firm and JCWS had made corresponding improvements to its proposal, the evaluation documents show that RSE would still have an [DELETED] advantage over JCWS. [DELETED] costs were less than JCWS's costs, both as proposed and as evaluated. [DELETED]. Accordingly, given the fact that technical, management, and cost factors were all important considerations in the selection process, it appears from the record that JCWS suffered no competitive prejudice by the lack of discussions on the disadvantages of its proposal. See Environmental Sys. and Servs., Inc., B-244213, Oct. 2, 1991, 91-2 CPD ¶ 283.

The protest is denied.

Robert P. Murphy Acting General Counsel

³RSE's total proposed costs were approximately \${DELETED}, and its total evaluated costs were approximately \${DELETED}, while JCWS's total proposed costs were approximately \${DELETED} and its total evaluated costs were approximately \${DELETED} million.